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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,858	11/13/2001	Steven Ausnit	769-300	9832

7590 04/24/2003

Gerald Levy, Esq.
PITNEY, HARDIN, KIPP & SZUCH LLP
711 Third Avenue
New York, NY 10017-4059

EXAMINER

SIPOS, JOHN

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 04/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/044,858

Applicant(s)

AUSNIT, STEVEN

Examiner

John Sipos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Applicant's arguments have been considered but are not persuasive and therefore the rejections made in the last Office action are repeated.

REJECTIONS OF CLAIMS BASED ON FORMAL MATTERS

Claims 8 is rejected under 35 U.S.C. ' 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See the last Office action.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

Claims 12 is rejected under 35 U.S.C. ' 102(b) as being clearly anticipated by the patent to Sanborn (4,437,293 - cited by applicant). The Sanborn patent discloses an apparatus and method for forming reclosable packages. It comprises of means for advancing a base film (35), means for loading the base film with two longitudinal rows of products (10), means for applying two zippers onto the base film (1), means for applying a cover film over the base film and the zippers (11), means for joining the zippers to the two films (30), means for transversely sealing the two films together and for cutting the sealed films transversely and longitudinally (38).

Claims 1-20 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to Sanborn (4,437,293) in view of Malin (6,138,436). As set forth above the Sanborn process is substantially equivalent to the one recited in the claims. The only difference between the claimed process and Sanborn is the forming of bags rather than of packages/film with pockets and the longitudinal sealing of the films together between the zippers to enclose the zippers. The patent

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to Malin shows a horizontal form-fill-seal bag forming operation which forms a single row of bags by feeding a zipper (32) onto a film, placing products on the film at 30, folding the film over the zipper and the product ((32), sealing the zipper to the top and bottom of the film (84,86), sealing the top and bottom of the film to each other (68,70) to enclose the zipper (see Figure 6), and transversely sealing and cutting the bags between the products (65/67). Although the claims do not specifically exclude films with pockets, it would have been obvious to one of ordinary skill in the art to use pocketless film in the process of Sanborn and form bags as shown by Malin. Furthermore, since Sanborn discloses an embodiment with dual zippers that are not joined together (see column 4, lines 59-69), it would have been obvious to one of ordinary skill in the art to longitudinally seal the top and bottom films together between the two zippers to enclose the zippers as taught by Malin. The use of peel seals (claim 3,10), line of weakness (claim 4,18), sliders and slider stops (claim 6,7,13,14) and guides (claims 17 and 19) are well known in the bag making art and their use in the Sanborn operation would have been obvious for their inherent advantages. Regarding the guides of claims 17 and 19, note guide 92 of Malin.

Claims 1-20 are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to of Malin (6,138,436) in view of Sanborn (4,437,293). It would have been obvious to one of ordinary skill in the art to perform the Malin operation in double rows as shown by Sanborn to increase the efficiency of the operation.

RESPONSE TO APPLICANTS ARGUMENTS

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Regarding the 35USC112 rejection of claim 8 applicant argues that Figures 9 and 10 support claim 8. The rejection is not directed to the lack of support of the claim 8 subject matter in the specification but rather that if the Figure 9 embodiment is claimed, i.e. the two first flanges of the two zippers are connected, the process of claim 8 cannot be performed. Claim 8 recites the longitudinal joining of the base and cover films between the two zippers. Since the flanges are connected between the zippers and are separating the base and the cover, this sealing cannot take place. Claim 8 should be amended to recite that the longitudinal sealing of the cover and the base is performed through the connected flanges.

Applicant's arguments regarding the rejections of the claims based on the prior art are not convincing. Applicant argues that neither Sanborn or Malin disclose slider operated zippers. It should first be noted that the term "slider operated zippers" does not require the presence of a slider and without further structural or manipulative steps of the slider the claimed method reads on the methods disclosed in these references. Furthermore, the use of "slider operated zippers", which are notoriously well-known in the art as can be seen from the cited references, instead of zippers that are not slider operated is merely a matter of choice and does not affect the steps of the process and its use would have been obvious to one of ordinary skill in the art to ease the opening of the bag by the consumer.

Applicant further argues that in the two applied references the zippers are not sealed to the film by their flanges. The patent to Sanborn clearly sets forth the use of flanges, and in fact uses that terminology, to seal the zippers to the film. As stated in column 4, lines 50 et seq. elements 16 and 17 comprise of "flanges" which provide additional seal surface area for the zipper against the film.

It should be noted that Sanborn clearly teaches the use of various types of zippers including dual, parallel zippers that are connected by their flanges (see Figures 8 and 9) as well as dual, parallel zippers that are longitudinally separate (column 4, lines 59-69).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

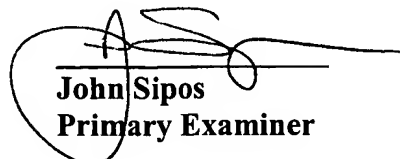
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 305-3579**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter Vo, can be reached at (703) 308-1789.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.


John Sipos
Primary Examiner